

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15652 of 2017

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Ram Krishna Prasad, Son of Late Pitambar Mahto, Resident of Village- Kakhara,
Police Station- Noor Sarai, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education,
Govt. of Bihar, Patna.
2. The Commissioner cum Secretary, Human Resources Development
Department, Govt. of Bihar, Patna.
3. The Director, Secondary Education, Govt. of Bihar, Patna.
4. The Deputy Director, Secondary Education, Govt. of Bihar, Patna.
5. The District Education Officer, Nalanda, Bihar Sharif.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhurendra Kumar, Advocate

For the Respondent/s : Mr. Narendra Kumar, AC to GP20

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 28-02-2018

Heard learned counsel for the petitioner and State.

The petitioner has filed the present writ application
for quashing of the order as contained in Memo No. 498 dated
10.07.2014, whereby the claim of the petitioner for pay protection
from 11.04.1970 to 22.05.1974 was rejected by the respondent
Director, Secondary Education.

In this case, vide order dated 15.12.2017, the
respondents were granted six weeks's time to file counter affidavit,
but the counter affidavit has not been filed.

Learned counsel for the petitioner submits that the
issue raised as to pay protection in the present writ application is no



more *res integra*. This Court has occasion to examine the issue and a Co-ordinate Bench of this Court vide judgment dated 23.12.2011 passed in C.W.J.C. No. 12407 of 2008 (Ram Krishna Prasad Vs. The State of Bihar & Ors.) (Annexure-8 to the writ application) has already adjudicated the issue. The relevant part of judgment dated 23.12.2011 reads as follows:

The order impugned, as contained in Annexure-8, is therefore, quashed and the writ application is allowed. The Director is directed to issue orders restoring the services of the petitioner on the post of Patna High Court CWJC No.12407 of 2008 dt.23-12-2011 headmaster of the concerned School with all consequential benefits within a period of two months from the date of receipt/production of a copy of this order. Thereafter, if he at all considers it necessary to re-examine the matter, he shall first of all prepare a list of all relevant Government instructions/circulars /resolutions issued from time to time since 1970 onwards, shall consider their cumulative legal effect, shall consider their validity and operation in context of Acts and Rules framed by the Government subsequently, shall get the individual teachers identified from the approved state level gradation list whose seniority and gradation and consequent promotion may get affected adversely, shall issue notice to them and thereafter only shall take a collective decision in the matter to be uniformly applicable in all identical cases. Any deviation from the above direction by the Director in taking steps in the matter shall be treated as disobedience of the orders of this Court.

In view of the above, the Court is constrained to



dispose of the writ application, as the respondents have not filed any counter affidavit to distinguish the case on fact, directing the respondents to take to take final decision in the light of judgment dated 23.12.2011 (Annexure-8) within a maximum period of sixty days from the date of receipt/production of a copy of this order.

It is needless to state here that if the case of the petitioner is found covered by the decision, as contained in Annexure-8, necessary consequential order must be passed by the respondents within a period of one month after the decision by the respondents as to the entitlement of the petitioner.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.03.2018
Transmission Date	

